

(US 6,327,046) in view of "Messaging's Next Blockbuster Hit" by Cox; (4) rejected claims 20, 22 and 34 under U.S.C. §103(a) as being unpatentable over Birdwell *et al.* in view of Cox as applied to claim 19 above, and further in view of Miyamoto *et al.* (US 6,327,046); (5) rejected claims 4, 5 and 24 under U.S.C. §103(a) as being unpatentable over Birdwell *et al.* in view of Cox as applied to claim 15 above, and further in view of Shinomura *et al.* (US 6,108,709). Applicant respectfully requests reconsideration of the application in view of the foregoing amendments and the following remarks.

Applicant submits herewith a declaration of Nancey J. Hammond, the inventor, under 37 C.F.R. §1.131. The facts contained in the declaration show that: (1) the claimed invention was conceived by the Applicant prior to the February 19, 1998 filing date of Shinomura *et al.* (US 6,108,709) and the June 24, 1998 filing date of Miyamoto *et al.* (U.S. 6,327,046), and (2) the claimed invention was diligently reduced to practice. All acts relied upon to establish the date prior to the Shinomura *et al.* and Miyamoto *et al.* references were carried out in the United States.

Pursuant to 37 C.F.R. §1.131(b), Assignee respectfully submits that it has demonstrated facts sufficient to remove both Shinomura *et al.* and Miyamoto *et al.* as prior art. Although Assignee respectfully disagrees with the merits of the Examiner's rejections of the pending claims over: (1) Shinomura *et al.* or Miyamoto, (2) the combination of Miyamoto *et al.* with Cox and/or Birdwell *et al.* and (3) the combination of Birdwell *et al.*, Cox and Shinomura *et al.*, Assignee reserves further comment on the merits in view of the enclosed declaration.

The Examiner is therefore respectfully requested to reconsider and withdraw the rejections of (1) claims 6-14 under 35 U.S.C. §103(a) as being unpatentable over Birdwell *et al.* in view of Cox and Miyamoto *et al.*; (2) claims 28-31 and 36-38 under 35 U.S.C. §103(a) as being unpatentable over Miyamoto *et al.* in view of Cox; (3) claims 20, 22 and 34 under U.S.C. §103(a) as being unpatentable over Birdwell *et al.* in view of Cox as applied to claim 19 above, and further in view of Miyamoto *et al.*; (4) claims 4, 5 and 24 under U.S.C. §103(a) as being unpatentable over Birdwell *et al.* in view of Cox as applied to claim 15 above, and further in view of Shinomura *et al.*.

Some of the technical differences between the remaining applied references and various embodiments of the invention will now be discussed. Of course, these discussed

differences, which are disclosed in detail in the patent specification, do not define the scope or interpretation of any of the claims. Where presented below, such discussed differences merely help the Examiner appreciate important claim distinctions discussed thereafter.

Applicant teaches novel methods and computer systems for enhancing the reliability of communication via electronic messages. In one embodiment, a method in a computer system for delivery of an electronic message includes determining whether after sending of the electronic message to a recipient a user-specified period of time has elapsed without receiving a confirmation of delivery of the electronic message to the recipient. When it is determined that the user-specified period of time has elapsed without receiving the confirmation, another electronic message is sent. In one aspect, an electronic message can be sent with one of a plurality of priority levels. Further, the sending of the another electronic message can be performed with a higher priority level than the sending of the electronic message.

The methods and computer systems taught by Applicant advantageously allow a sender to automatically send messages to intended recipients until confirmation from the recipient is received. As a result, the reliability of electronic communications between the sender and the intended recipients is increased.

Birdwell *et al.*

Birdwell *et al.* (U.S. 5,793,973) teaches a method and system for opportunistic broadcasting data or sending data by a point-to-point connection. As best shown in Figure 1, Birdwell *et al.* teaches a server computer system (server) 102 connected to client computer systems (clients) 101 via a point-to-point connection 104 and broadcast transmission mechanisms 103A, 103B. (4:30-35). When a request from several clients 101 to receive the same data is received by the server 102, the requested data can be broadcast over broadcast transmission mechanisms 103A, 103B to all of the clients 101 simultaneously, including those who did not make a request, with the intended clients actually storing and processing the data. (3:24-39 and 5:14-17). The server 102 tracks all of the requesting clients 101 who do not confirm receipt of the downloaded data. (3:64-4:1). When one of these clients 101 subsequently establishes a connection to the server 102 through the point-to-point connection 104, the client

101 may request the data to be downloaded, and the server 102 can send the client 101 a list of data for which the client 101 has not confirmed receipt. (4:1-7). Using this list, the client can selectively request which data to download. (4:7-8).

Birdwell *et al.* does not teach or suggest the communication methods and computer systems taught by Applicant. Specifically, Birdwell *et al.* does not teach or suggest *determining whether after sending of the electronic message to a recipient a user-specified period of time has elapsed without receiving a confirmation of delivery of the electronic message to the recipient; and when it is determined that the user-specified period of time has elapsed without receiving the confirmation, sending another electronic message.* On the contrary, Birdwell *et al.*, teaches resending data to a client only after the client reestablishes a connection to the server and requests the data to be downloaded. This teaches away from the method taught by Applicant in which no action is required by the recipient, but rather the electronic message is resent automatically after a user-specified period of time has elapsed without the sender having received confirmation from the recipient.

“Messaging’s Next Blockbuster Hit” by Cox

“Messaging’s Next Blockbuster Hit” by Cox (“Cox”) teaches a client/server messaging system. In particular, Cox teaches enabling a sender to confirm that a recipient has received a message by allowing the sender to place a request that a read receipt or a delivery notification, or both, be sent back to the sender. (6:15-16). Such a function can be employed by the user to determine if the recipient of a message has actually opened the message or has merely received it. (6:16-18).

Cox does not remedy the above noted failed teachings of Birdwell *et al.*. Specifically, Cox does not teach or suggest *determining whether after sending of the electronic message to a recipient a user-specified period of time has elapsed without receiving a confirmation of delivery of the electronic message to the recipient; and when it is determined that the user-specified period of time has elapsed without receiving the confirmation, sending another electronic message.* Cox only teaches that a request can be included in the message asking the recipient to return a receipt confirming that the message was received or read by the recipient. No action beyond this is taught by Cox, and thus if a recipient fails to return a receipt,

no further action (such as the automatic sending of future messages as taught by Applicant) is taken.

- I. Rejected claims 1-3, 15-19, 21, 23, 25-27, 32, 33 and 35 under 35 U.S.C. § 103(a) as being unpatentable over BIRDWELL (US 5,793,973) in view of "Messaging's Next Blockbuster Hit" by COX.*

Claims 1-3

Turning now to the specific language of the claims, claim 1 recites a method in a computer system for a sender of an electronic message to ensure that the electronic message is delivered to and reviewed by intended recipient users, the method comprising composing the electronic message, indicating a plurality of intended recipient users, selecting a delivery recipient user from the intended recipient users, selecting a review recipient user from the intended recipient users, sending the electronic message to the plurality of intended recipient users, requesting from the delivery recipient user a delivery notification when the electronic message is delivered to the recipient user, requesting from the review recipient user a review notification when the review recipient user reviews the electronic message, determining a delivery waiting period for receiving the delivery notification, determining a review waiting period for receiving the review notification, and *without user intervention, when the delivery notification from the delivery recipient user is not received by the sender within the delivery waiting period, resending the electronic message to the delivery recipient user, and when the review notification from the review recipient user is not received by the sender within the review waiting period, sending a second electronic message to the review recipient user.* (emphasis added).

As described above, Birdwell *et al.* and Cox, either singly or in combination, does not disclose, teach or fairly suggest the method recited in claim 1. Specifically these references do not teach or suggest without user intervention, when the delivery notification from the delivery recipient user is not received by the sender within the delivery waiting period, resending the electronic message to the delivery recipient user, and when the review notification from the review recipient user is not received by the sender within the review waiting period, sending a second electronic message to the review recipient user. Birdwell *et al.* requires the recipient to

reestablish contact with the server, and no review waiting period is taught. Similarly, Cox teaches only the inclusion in the original message of a request asking the recipient to return a receipt confirming that the message was received or read by the recipient. No further action is taught by Cox. Claim 1 is therefore patentable over the combination of Birdwell *et al.* and Cox.

Claims 2-3 depend from claim 1 and are patentable over the combination of Birdwell *et al.* and Cox for the same reasons as claim 1 and also due to the additional limitations found in those claims. For example, claim 2 recites the method of claim 1 wherein multiple delivery recipient users and multiple review recipient users are selected, wherein the resending is performed for each delivery recipient user when a delivery notification for that delivery recipient user is not received by the sender within the delivery waiting period, and wherein the sending of the second electronic message is performed for each review recipient user when a review notification for that review recipient user is not received by the sender within the review waiting period. Similarly, claim 3 recites the method of claim 1 wherein the sent second electronic message is distinct from the sent electronic message, wherein the sent electronic message indicated a priority level for review of the sent electronic message, and wherein the sent second electronic message indicates an elevated priority level for review of the sent second electronic message. These additional limitations are also not taught or suggested by the combination of Birdwell *et al.* and Cox.

Claims 15-19, 21, 23, and 25-27

Claim 15 recites a method in a computer system for delivery of an electronic message, the method comprising *determining whether after sending of the electronic message to a recipient a pre-determined period of time has elapsed without receiving a confirmation that the recipient reviewed the sent electronic message, and when it is determined that the period of time has elapsed without receiving the confirmation, sending another electronic message.* (emphasis added).

As described above, Birdwell *et al.* and Cox, either singly or in combination, does not disclose, teach or fairly suggest the method recited in claim 15. Specifically these references do not teach or suggest determining whether after sending of the electronic message to a recipient a pre-determined period of time has elapsed without receiving a confirmation that the

recipient reviewed the sent electronic message, and when it is determined that the period of time has elapsed without receiving the confirmation, sending another electronic message. Birdwell *et al.* requires the recipient to reestablish contact with the server, and no review waiting period is taught. Similarly, Cox teaches only the inclusion in the original message of a request asking the recipient to return a receipt confirming that the message was received or read by the recipient. No further action is taught by Cox. Claim 15 is therefore patentable over the combination of Birdwell *et al.* and Cox.

Claims 16-19, 21, 23, and 25-27 depend from claim 15 and are patentable over the combination of Birdwell *et al.* and Cox for the same reasons as claim 15 and also due to the additional limitations found in those claims. For example, claim 16 recites the method of claim 15 including requesting the confirmation. Similarly claim 17 recites the method of claim 15 including monitoring review of electronic messages by the recipient to determine when the recipient reviews the sent electronic message. Claim 18 recites the method of claim 17 wherein the monitoring of the review includes detecting when the recipient accesses the sent electronic message, and monitoring user interaction with the accessed electronic message to determine if review of the accessed electronic message has occurred. Claim 19 recites the method of claim 15 wherein the electronic message is sent to a plurality of recipients, wherein a period of time is determined for each recipient, and wherein the sending of the another message is performed automatically for each recipient when the period of time for that recipient has elapsed without receiving a confirmation for that recipient. Claim 21 recites the method of claim 15 wherein the electronic message can be sent with one of a plurality of urgency levels indicating an urgency to review the electronic message, and wherein the sending of the another electronic message includes a higher urgency level than the sending of the electronic message. Claim 23 recites the method of claim 15 wherein the another electronic message includes the electronic message, and wherein the sent another electronic message indicates an elevated priority that the sent another electronic message be reviewed. Claim 25 recites the method of claim 15 including after receiving the confirmation, automatically sending a third electronic message after a second predetermined period of time. Claim 26 recites the method of claim 15 including when it is determined that the period of time has elapsed without receiving the confirmation and that the confirmation is not received within a second period of time, automatically sending a third

electronic message. And claim 27 recites the method of claim 15 including setting a timer to expire at the pre-determined period of time after the sending of the electronic message, and wherein the another electronic message is automatically sent when the confirmation is not received before the timer expires. These additional limitations are also not taught or suggested by the combination of Birdwell *et al.* and Cox.

Claims 32-33 and 35

Claim 32 recites a computer-readable medium containing instructions for controlling a computer system to deliver an electronic message, by determining whether after sending of the electronic message to a recipient a pre-determined period of time has elapsed without receiving a confirmation that the recipient reviewed the sent electronic message, and when it is determined that the period of time has elapsed without receiving the confirmation, sending another electronic message. (emphasis added).

As described above, Birdwell *et al.* and Cox, either singly or in combination, does not disclose, teach or fairly suggest the computer medium recited in claim 32. Specifically these references do not teach or suggest determining whether after sending of the electronic message to a recipient a pre-determined period of time has elapsed without receiving a confirmation that the recipient reviewed the sent electronic message, and when it is determined that the period of time has elapsed without receiving the confirmation, sending another electronic message. Birdwell *et al.* requires the recipient to reestablish contact with the server, and no review waiting period is taught. Similarly, Cox teaches only the inclusion in the original message of a request asking the recipient to return a receipt confirming that the message was received or read by the recipient. No further action is taught by Cox. Claim 32 is therefore patentable over the combination of Birdwell *et al.* and Cox.

Claims 33 and 35 depend from claim 32 and are patentable over the combination of Birdwell *et al.* and Cox for the same reasons as claim 32 and also due to the additional limitations found in those claims. For example, claim 33 recites the computer-readable medium of claim 32 wherein the electronic message is sent to a plurality of recipients, wherein a period of time is specified for each recipient, and wherein the sending of the another message is performed automatically for each recipient when the period of time for that recipient has elapsed without

receiving the confirmation for that recipient. Similarly, claim 35 recites the computer-readable medium of claim 32 wherein the computer system is further controlled by when the confirmation is not received within the pre-determined amount of time, determining a second amount of time; and when the confirmation is not received within the determined second amount of time, automatically sending a third electronic message. These additional limitations are also not taught or suggested by the combination of Birdwell *et al.* and Cox.

For the foregoing reasons, Applicant respectfully requests reconsideration and withdrawal of the rejection of claims 1-3, 15-19, 21, 23, 25-27, 32, 33 and 35 under 35 U.S.C. §103(a) as being unpatentable over Birdwell *et al.* (US 5,793,973) in view of "Messaging's Next Blockbuster Hit" by Cox.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant believes that pending claims 1-38 are in condition for allowance, and that action is respectfully requested. If there are any remaining matters that can be handled in a telephone conference, the Examiner is invited to telephone the undersigned attorney, Jim Patterson, at (206) 903-5498.

Respectfully submitted,

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Enclosures:

- Postcard
- Fee Transmittal Sheet (+ copy)
- Declaration Under 37 C.F.R. 1.131
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